

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

TERESA HARRIS,)	
)	
Plaintiff,)	
)	
vs.)	Case No.
)	
EXPRESS SCRIPTS, INC.,)	(Removed from Circuit Court of St. Louis
)	County, Missouri – 21SL-CC00975)
Defendant.)	

NOTICE OF REMOVAL

Defendant Express Scripts, Inc. (“Express Scripts”) hereby removes the above-captioned action which is currently pending in the Twenty-First Judicial Circuit Court of St. Louis County Missouri to the United States District Court for the Eastern District of Missouri. This removal is based upon federal question pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, and for its Notice of Removal, states as follows:

The State Court Action

1. On March 2, 2021, Plaintiff Teresa Harris (“Plaintiff”) filed a lawsuit in the Twenty-First Judicial Circuit Court of St. Louis County, Missouri, entitled *Teresa Harris v. Express Scripts, Inc.*, Case No. 21SL-CC00975. The Petition and Summons were served upon Express Scripts on March 24, 2021. *See* Petition and Summons, State Court File, attached as **Exhibit A.**

2. Plaintiff’s Petition alleges various claims of Sex Discrimination, Retaliation, Race Discrimination, and Hostile Work Environment in violation of The Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* (“Title VII”); Disability Discrimination in violation of the Americans with

Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.* (“ADA”); and common law Intentional Infliction of Emotional Distress. **Exhibit A, Petition.**

Venue

3. The United States Supreme Court has held, under 28 U.S.C. § 1446(a), a defendant seeking to remove a case to federal court need only file “a notice of removal ‘containing a short and plain statement of the grounds for removal.’” *Owens v. Dart Cherokee Basin Operating Co., LLC*, 135 S. Ct. 547, 551 (2014). This language “tracks the general pleading requirement stated in Rule 8(a) of the Federal Rules of Civil Procedure” and “[a] statement ‘short and plain’ need not contain evidentiary submissions.” *Id.* at 553.

4. This action was filed in the Twenty-First Judicial Circuit Court of St. Louis County, Missouri, which lies within the United States District Court for the Eastern District of Missouri and thus, this Court is the proper forum for removal pursuant to 28 U.S.C. § 1441 and 28 U.S.C. § 1446(a).

Federal Question Jurisdiction and Supplemental Jurisdiction

5. Plaintiff’s Petition alleges civil violations of United States federal law, asserting five claims (Counts I, II, III, IV, and VI) under Title VII and one claim under the ADA (Count V) and, as such, raises a federal question.

6. Because Plaintiff’s Petition raises a federal question, this Court has original jurisdiction over this action under 28 U.S.C. § 1331, and Express Scripts is entitled to remove this matter to this Court pursuant to 28 U.S.C. § 1441(a).

7. Pursuant to 28 U.S.C. § 1367(a), this Court possesses supplemental jurisdiction over Count VII of Plaintiff’s Petition alleging a common law claim for Intentional Infliction of Emotional Distress. Plaintiff’s state law claim relates to the same allegations concerning her

employment as her federal claims such that they are part of the same common nucleus of operative facts and stem from the same case or controversy pursuant to Article III of the U.S. Constitution. 28 U.S.C. § 1367(a); *see e.g., Williams v. City of Marston*, 857 F. Supp. 2d 852, 861-62 (E.D. Mo. 2012) (affirming supplemental jurisdiction over a plaintiff's state court action involving an alleged violation of the Missouri Sunshine Act because the state court action formed a part of the same case or controversy as the plaintiff's federal employment retaliation claim and derive from the same common nucleus of operative facts).

Compliance With Procedural Requirements

8. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) in that it is filed within thirty (30) days of service of summons on Express Scripts.

9. Pursuant to 28 U.S.C. § 1446(d), Express Scripts is providing a Notice to Plaintiff stating that a Notice of Removal to the Clerk of the United States District Court for the Eastern District of Missouri was filed and serving a copy of this Notice of Removal upon Plaintiff. *See* Notice to Plaintiff, attached hereto as **Exhibit B**.

10. Pursuant to Local Rule 2.03, Express Scripts will file proof with this Court that the Notice to the Circuit Clerk was sent to the Clerk of the Twenty Second Judicial Circuit Court of Missouri.

11. A Civil Cover Sheet and an Original Filing Form are filed as attachments to this Notice.

12. Express Scripts files this Notice of Removal solely for the purpose of removing this instant Action and does not waive, but specifically reserves, any and all defenses.

WHEREFORE, having fulfilled all statutory requirements, Defendant Express Scripts, Inc. hereby removes this Action from the Twenty-First Judicial Circuit Court of St. Louis County,

Missouri to the United States District Court for the Eastern District of Missouri, and requests the Court assume jurisdiction over the Action.

Respectfully submitted,

/s/ Benjamin R. Marble

Kimberly A. Yates #49879MO
kyates@littler.com
Benjamin R. Marble, #69207MO
bmarble@littler.com
LITTLER MENDELSON, P.C.
600 Washington Avenue
Suite 900
St. Louis, MO 63101
Telephone: 314.659.2000
Facsimile: 314.659.2099

Attorneys for Defendant
EXPRESS SCRIPTS INC.

CERTIFICATE OF SERVICE

The undersigned certifies that on this 23rd day of April, 2021, a true and correct copy of the foregoing was filed with the Clerk of the Court using the CM/ECF system, and served via e-mail and U.S. Mail to the following:

Jeffrey D. Hackney
HKM EMPLOYMENT ATTORNEYS, LLP
13321 N. Outer 40, Suite 500.
Town & Country, Missouri 63017
jhackney@hkm.com

Attorney for Plaintiff

/s/ Benjamin R. Marble